

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

January 15, 2020  
10:00 AM

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IN RE:

Case No. 19-23113-SHL

BARRY LIPSTEIN &  
MERYL Y. LIPSTEIN,

Hon. SEAN H. LANE

**NOTICE OF MOTION**

Debtors.  
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PLEASE TAKE NOTICE, that upon the within application, Krista M. Preuss, Chapter 13 Trustee, will move this court before the Hon. Sean H. Lane, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 300 Quarropas, White Plains, NY 10601-4150, on the 15th day of January, 2020 at 10:00 AM, or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York  
November 22, 2019

s/ Krista M. Preuss  
Krista M. Preuss, Chapter 13 Trustee  
399 Knollwood Road, Ste 102  
White Plains, NY 10603  
(914) 328-6333

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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January 15, 2020  
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IN RE:

Case No: 19-23113-SHL

BARRY LIPSTEIN &  
MERYL Y. LIPSTEIN,

Hon. SEAN H. LANE

**APPLICATION**

Debtors.  
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TO THE HONORABLE SEAN H. LANE, U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on June 3, 2019, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.
2. The Debtor has failed to comply with 11 U.S.C. §521(a)(1) and Bankruptcy Rule 1007(b) in that the following required documents have not been filed:
  - a. copies of all payment advices or other evidence of payment for last 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor pursuant to 11 U.S.C. §521(a)(1)(B)(iv).
3. Furthermore, the Debtor has failed to:
  - a. commence making Chapter 13 plan payments to the Trustee, as required by 11 U.S.C. §1326(a)(1), being five months in arrears, or the sum of \$3,625.00 as of the date of this application;
  - b. provide the Trustee a copy of a federal income tax return or transcript for the most recent year, specifically 2018, seven days before first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i);
  - c. amend the Plan to include the secured claim in favor of New York State Department of Taxation & Finance in the sum of \$42,116.56 (Claim # 1) and the secured portion of the claim in favor of the Internal Revenue Service in the sum of \$128,723.53 (Claim # 4).
4. The Debtor's proposed Chapter 13 plan is not feasible as it is not adequately funded to provide for full repayment to the secured claims as required by 11 U.S.C. §1325(a)(5).

5. The deficiencies as stated above impede the Trustee's ability to administer this case and, therefore, are defaults that are prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

6. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York  
November 22, 2019

/s/ Krista M. Preuss  
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
IN RE:

Case No: 19-23113-SHL

BARRY LIPSTEIN &  
MERYL Y. LIPSTEIN,

**CERTIFICATE OF SERVICE  
BY MAIL**

Debtors.

-----x  
This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

BARRY LIPSTEIN  
38 ROBERTS ROAD  
NEW CITY, NY 10956

MERYL Y. LIPSTEIN  
38 ROBERTS ROAD  
NEW CITY, NY 10956

JULIE CVEK CURLEY, ESQ  
KIRBY AISNER & CURLEY LLP  
700 POST ROAD # 237  
SCARSDALE, NY 10583

NYS Department of Taxation & Finance  
Bankruptcy Section  
P.O. Box 5300  
Albany, New York 12205

Internal revenue Service  
P.O. Box 7346  
Philadelphia, Pennsylvania 19101-7346

Toyota Lease Trust  
Toyota Motor Credit Corporation  
P.O. Box 9013  
Addison, Texas 75001

Bank of America, NA  
P.O. Box 31785  
Tampa, Florida 33631

JP Morgan Chase Bank, NA  
700 Kansas Lane  
Mail Code LA4-5555  
Monroe, Louisiana 71203

This November 22, 2019  
s/ Lois Rosemarie Esposito  
Lois Rosemarie Esposito, Paralegal  
Office of the Standing Chapter 13 Trustee  
Krista M. Preuss, Esq.  
399 Knollwood Road, Suite 102  
White Plains, NY 10603  
(914) 328-6333

CASE NO: 19-23113-SHL

Hon. SEAN H. LANE

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

BARRY LIPSTEIN &  
MERYL Y. LIPSTEIN,

Debtors.

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**NOTICE OF MOTION, APPLICATION, AND CERTIFICATE OF SERVICE**

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**KRISTA M. PREUSS  
STANDING CHAPTER 13 TRUSTEE  
399 KNOLLWOOD ROAD, SUITE 102  
WHITE PLAINS, NEW YORK 10603  
(914) 328-6333**

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